6019

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1890.

No. 108.

THE STEAMSHIP "BUENA VENTURA," JUAN DE LUZARRAGA, CLAIMANT, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

FILED JULY 29, 1890.

(16,935.)

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1 Copy.

In the District Court of the United States, Southern District of Florida.

UNITED STATES OF AMERICA
vs.
STR. "BUENA VENTURA." } Prize.

To the Honorable James W. Locke, judge of the district court of the United States for the southern district of Florida:

The libel of Joseph N. Stripling, attorney of the United States for the southern district of Florida, who libels for the United States and for all parties in interest, against the steam vessel Buena Ventura in a cause of prize, alleges:

That, pursuant to instructions from the President of the United States, W. Maynard, of the United States Navy, in and with the United States ship of war the "Nashville," her officers and crew, did, on the 22nd day of April, in the year of our Lord one thousand eight hundred and ninety-eight, subdue, seize, and capture on the high seas, as prize of war, the said steam vessel "Buena Ventura," — and her cargo have been brought into the port and harbor of Key West, in the State of Florida, where the same now are, within the jurisdiction of this court, and that the said vessel and cargo are lawful prize of war and subject to be condemned and forfeited to the United States as such.

Wherefore the said attorney prays that all persons having or claiming any interest in said vessel or cargo may by the proper process of this court be duly notified of the allegations and prayers of this libel and cited to appear and claim the same; that the nature, amount, and value of said cargo may be determined, and that on proper proofs being taken and heard and all due proceedings being had the said Buena Ventura, together with her tackle, apparel, furniture, and cargo, may on the final hearing of this cause by the definitive sentence and decree of this court be condemned, forfeited, and sold as a prize of war and the proceeds distributed according to law.

J. N. STRIPLING,
U. S. Attorney, S. D. of Florida.

Let attachment and mo-tion issue as prayed, returnable 9th day of May, 1898.

Entered as of course.

E. O. LOCKE, *Clerk*,
By JULIUS OTTO, *D'y Clerk.*

Endorsed: Filed in the office of the clerk at Key West, this 23rd day April, A. D. 1898. (S'd) E. O. Locke, clerk.

2 Copy.

UNITED STATES OF AMERICA:

District Court of the United States, Southern District of Florida.

The President of the United States to John F. Horr, Esq., the marshal of the United States for the southern district of Florida, Greeting:

You are hereby commanded forthwith to attach, seize, and take into your custody the Spanish steamer "Buena Ventura" and cargo, wheresoever the same may be found within your precincts, and the same you are required to keep until the further order of this court, to answer the claim of United States for prize.

And how you shall have executed this precept make known to the said court, at the court-rooms, in Key West, Fla., the 9th day of May, A. D. 1898, at 10.30 o'clock a. m., by a return hereof, with your certificate of execution hereon written.

Witness the Honorable James W. Locke, judge of the said court, at Key West, in said district, this 23rd day of April, in [SEAL.] the year of our Lord one thousand eight hundred and ninety-eight, and Independence of the United States the hundred and twenty-first.

E. O. LOCKE, *Clerk*,
By J. OTTO, *D'y Clerk.*

Endorsed: Received the within writ of attachment April 23rd, 1898, and duly executed it as within commanded by attaching and taking into custody the Spanish steamer Buena Ventura. (S'd) John F. Horr, U. S. marshal, so. dist. of Florida, (S'd) by Alfred Atchison, d'y U. S marshal. Filed April 23rd, 1898. (S'd) E. O. Locke, clerk.

3 Copy.

UNITED STATES OF AMERICA:

District Court of the United States, Southern District of Florida.

The President of the United States to John F. Horr, Esq., the marshal of the United States for the southern district of Florida, Greeting:

Whereas, on the 23d day of April, A. D. 1898, the United States of America, by *their* proctor, Jos. N. Stripling, Esq., filed in the office of the clerk of said court *their* libel against the Spanish str. Buena Ventura in a cause of prize, alleging in substance that she was captured by the 3rd-rate cruiser "Nashville," April 22d, 1898, as a prize of war.

Wherefore the said libellant pray- that the usual process of attachment may issue against the said str. Buena Ventura; that moni-

tion may issue citing all parties having or claiming any interest or property in said str. "Buena Ventura" to appear and answer upon oath all and singular the matters aforesaid, and that this court will be pleased to decree to the libellant the proceeds of said prize *dollars* for services in said cause, and that the said str. "Buena Ventura" may be condemned and sold to pay said charges and expenses, and that the libellant may have such other and further relief in the premises as in law and justice he may be entitled to receive; and whereas the judge of said court has ordered that attachment and monition be issued as prayed, returnable on Monday, the 9th day of May, A. D. 1898:

Now, therefore, you are hereby commanded forthwith to cite and admonish all persons whomsoever having any right, title, claim, or interest in or to the said str. "Buena Ventura" to appear at an admiralty session of said court, to be held in the court-rooms of said court, at Key West, in said district, on Monday, the 9th day of May, A. D. 189–, at 10.30 o'clock in the forenoon of that day, to show cause, if any they have, why prize money should not be decreed according to the prayer of the libellant, and to attend upon every session of said court from that time held until a final decree shall be rendered in the premises.

And this you are required to do by serving on the master of said vessel a true copy hereof and by posting two such other copies in the most public places of Key West and by publish*ed* a copy in the Key West Advertiser once a week for two weeks.

And how you shall have executed this precept make known to this court by a return hereof on or before the 9th day of May aforesaid, with your certificate of execution hereon written.

Witness the Hon. James W. Locke, judge of said court, at Key West, in said district, this 23rd day of April, in the year [SEAL.] of our Lord one thousand eight hundred and nin*ety*-eight, and of the Independence of the United States the hundred and twenty-first.

(S'd) E. O. LOCKE, *Clerk*,
(S'd) By J. OTTO, *D'p'y Clerk*.

Endorsed: Received the within writ of monition Apr. 23d, 1898, and duly executed it the same day by reading to the master of the S. S. Buena Ventura and posting two copies as within commanded. (S'd) John F. Horr, U. S. marshal, so. dist. of Fla., (S'd) by Alfred Atchison, d'y U. S. marshal. Filed April 23rd, 1898. (S'd) E. O. Locke, clerk.

4 (*Claim for ½ Cargo.*)

THE UNITED STATES
vs.
THE S. S. BUENA VENTURA & CARGO. } Prize.

To the Hon. James W. Locke, judge of the United States district court in and for the southern district of Florida, in admiralty:

And now comes into court W. S. Keyser and says that about

400,000 feet of pine lumber, being about one-half of the cargo of the steamship Beuna Ventura, is the sole and exclusive property of the firm of W. S. Keyser & Co., of Pensacola, Florida; that said firm consists of said W. S. Keyser and William Rudolf and of no other person or persons, and that no person or persons whomsoever, enemies of the United States, have any right, title, or interest whatsoever in or to said cargo or any part thereof.

That the said W. S. Keyser is a native-born citizen of the United States, residing in the city of Pensacola, in the State of Florida, and that the said William Rudolf is a subject of Great Britain, residing at Pensacola.

And he further denies that said cargo is lawful prize of war, as alleged and set forth in the captor's libel exhibited and filed in this cause.

Now, therefore, the said W. S. Keyser comes into court and claims the right to possession of said portion of the said cargo for the said firm of W. S. Keyser & Co., and prays that upon a hearing of this cause the court will award them restitution thereof free from charges for costs and expenses, and for such other and further relief in the premises as is right and just; and he will ever pray, &c.

5

— —.

W. S. Keyser, being first duly sworn, deposes and says that he — one of the claimants named in the foregoing claim, and that he knows the contents of the same, and that the matters and allegations therein contained are true as therein set forth; that his knowledge of said matters is absolute and acquired by means of his joint ownership of said cargo and as a member of the firm of W. S. Keyser & Co.

(S'd) W. S. KEYSER.

Sworn to and subscribed before me this 30th day of April, A. D 1898.

[SEAL.] (S'd) A. W. MARSH,
Clerk of the U. S. District Court for the Northern Dist. of Fla.

(S'd) JEFF'N B. BROWNE,
(S'd) JNO. C. AVERY,
Proctors for Claimants.

(Endorsed:) Filed May 6th, 1898. (S'd) E. O. Locke, clerk.

(*Claim for ½ the Cargo.*)

6 THE UNITED STATES
vs.
THE S. S. BUENA VENTURA & CARGO. } Prize.

To the Hon. James W. Locke, judge of the district court of the United States in and for the southern district of Florida, in admiralty:

And now comes into court A. S. Benn and says that he is a citizen of Mobile, Ala., and agent in the United States for the firm of Price & Pierce, of London, England, and that about 400,000 feet of pine lumber, being about one-half of the cargo, is the sole and exclusive property of the said firm of Price & Pierce, of London, England, and of no other person or persons, and that no other person or persons whomsoever, enemies of the United States, have any right, title, or interest whatever in or to said cargo or any part thereof.

That the said firm consists solely of Edward George Price, Ion Hamilton Benn, and Charles Napiel Lawrence, who are subjects of Great Britain, residing at London, England.

And he further denies that said cargo is lawful prize of war, as alleged and set forth in the captor's libel exhibited and filed in this cause.

Now, therefore, the said A. S. Benn comes into court and claims the right to the posession of the said portion of the said cargo for the said firm of Price & Pierce, and prays that upon a hearing of this cause the court will award to them restitution thereof free from charges for costs, and expenses, and *of* such other and further relief in the premises as is right and just; and he will ever pray, &c.

(S'd) A. S. BENN,
Agent for Price & Pierce.

7 A. S. Benn, being duly sworn, deposes and says that he is the duly authorized agent in the United States of said Price & Pierce, of London, where all of the members of the firm are and reside; that he knows the contents of the foregoing claim, and that the matters and allegations therein contained are true as therein set forth, and that his knowledge of said matters is absolute and acquired by means of his agency in the United States for the said Price & Pierce and by reason of his connection with the shipment of the said cargo.

(S'd) A. S. BENN.

Sworn to and subscribed before me this 2nd day of May, 1898.

[SEAL.] (S'd) RICH'D JONES,
Clerk of the U. S. District Court for the Southern District of Ala.

(S'd) JEFF'N B. BROWNE &
JNO. C. AVERY,
Proctors for Claimants.

(Endorsed:) Filed May 6th, 1898. (S'd) E. O. Locke, clerk.

(*Claim to Vessel by Master.*)

At a stated term of the district court of the United States for the southern district of Florida, held in the United States court-rooms, at Key West, on the — day of May, 1898.

Present: Honorable James W. Locke, district judge.

THE UNITED STATES
vs.
8 THE S. S. BEUNA VENTURA & HER CARGO. } Prize.

And now comes Juan de Luzarraga, intervening as bailee for the interest of Teodoro Larrinaga, Miguel Larrinaga, Domingo Larrinaga, Anselma Larrinaga, Felix Larrinaga, Teodore Arana, Rufino Amusategui, Teresa Amusategui, Antonio Ozamis, Wenceslao Andersch, and Pedro Moreno in the said steamship Buena Ventura, her engines, boilers, tackle, apparel, furniture, and equipment, appears before this honorable court and makes claim to the said steamship, &c., as the same are attached by the marshal, under process of this court, at the instance of the United States of America, under a libel against said steamship, her cargo, &c., as a prize of war; and the said Juan Luzarraga avers that before and at the time of the alleged capture of said steamship, her cargo, &c., the above-named Teodoro Larrinaga, Miguel Larrinaga, Domingo Larrinaga, Anselma Larrinaga, Felix Larrinaga, residing in England, and Teodoro Arana, Rufino Annesategui, Antonio Ozanis, Wenceslao Andersch, and Pedro Moreno, residing in Spain, all of whom are Spanish subjects, were the true and *bona fide* owners of the said vessel, her engines, boilers, tackle, apparel, and furniture; that no other person was the owner thereof; that he was in possession thereof for the said owners, and that the vessel, if restored, will belong to the said owners, and he denies that she was lawful prize.

Wherefore the said Juan Luzarraga, for and in behalf of the said owners, for whom he is duly authorized to make this claim, prays to be admitted to defend accordingly, and to show cause, pursuant to the terms of the monition issued herein and served upon the master thereof, as bailee, why the said steamship, her engines, &c.,
9 were not liable to be treated as enemy's property at the time and place and under the circumstances of the alleged capture, and why she should not be condemned as lawful prize of war, but should be restored with damages and costs.

(S'd) JUAN DE LUZARRAGA.

Sworn to before me this 18th day of May, 1898.

(S'd) JULIUS OTTO, *D'y Clerk.*

(S'd) CONVERS & KIRLIN,
(S'd) G. BOWNE PATTERSON,
Proctors for Claimants.

Endorsed: Filed May 18th, 1898. (S'd) O. E. Locke, clerk.

(*Test Affidavit.*)

U. S. District Court, Southern District of Florida.

THE UNITED STATES
against
THE STEAMSHIP BUENA VENTURA & HER CARGO. } Test Affidavit.

SOUTHERN DISTRICT OF FLORIDA, *ss:*

JUAN DE LUZARRAGA, being duly sworn, deposes and says:

1st. I am the claimant herein and have verified the claim on knowledge derived from my position as master of this vessel about three and a half years and from my official communications with the ship-owners and their representatives. The names and residences of the part owners I have learned since my examination *in preparatorio* from cables to my counsel from the said owners.

10

2nd. The Buena Ventura is a Spanish merchant vessel, and since I have been in command of her, as aforesaid, has traded between ports in England and Spain and the United States and West Indies. The vessel carries no passengers or mails, but is exclusively a cargo-carrier.

3rd. In the ordinary course of her said business as a common carrier the vessel, in the month of April, 1898, loaded a full cargo of lumber at Ship Island, Miss., and on the 14th day of April, 1898, the vessel and cargo was cleared at the custom-house in Scranton, Miss. The cargo was destined for Rotterdam, in the Kingdom of Holland, but the vessel was cleared coastwise from Scranton for Norfolk, in the State of Virginia, to which port the steamer was bound for coals. In the ordinary course of such a voyage the foreign clearance of the vesssl for Rotterdam would have been obtained and issued from the custom-house in Norfolk. The vessel was laden at the loading port under the agency of W. S. Keyser & Co., an American firm, as I am informed and believe, and conformed there in all things to the laws and regulations of the United States and of said port. She was detained at Ship Island by low water on the bar until April 19th, 1898, between 8 and 9 o'clock a. m., when she sailed from said place and proceeded on her voyage towards Norfolk, Va., as aforesaid. But for her capture and detention, as hereinafter set forth, she would have reached Norfolk and would have coaled and sailed from said port prior to May 21st, 1898.

4th. It appeared from the ship's papers delivered to the captors, and was a fact, that her cargo was all taken on board prior to May 21st, 1898, and, as I am informed and believe, the vessel was not otherwise excluded from the benefits and privileges of the President's proclamation of April 26th, 1898.

11

5th. At all times before the ship's seizure, on April 22nd, 1898, I and all my officers were ignorant that war existed between Spain and the United States and the vessel was bound and following the ordinary course of her voyage.

6th. While on the said voyage and in due prosecution thereof, and about 7 or 7.30 of the clock in the morning of April 22nd, 1898, said steamship Buena Ventura, being then about eight or nine miles from Sand Key light, was seized and wrongfully captured by the United States ship of war Nashville, under the command of a line officer of the United States Navy, and by means of a prize crew then and there placed on board forcibly brought into this port of Key West. On being stopped by said United States ship of war Nashville and being informed of the existence of war, the master and officers of the Buena Ventura submitted without resistance to seizure and to the placing of a prize crew on board of said vessel, proceeding therewith, under her own steam, into port.

7th. Deponent is informed and believes that by the existing policy of the Government of the United States, as evidenced by the repeated declarations of its Executive and by the proclamation of the President of the United States issued and published April 26th, 1898, as well as upon the principles in harmony with the present views of nations and sanctioned by recent practice, in accordance with which the President has directed that the war should be conducted, the steamship Buena Ventura, at the time and place and in the circumstances under which she was seized, was not liable to be treated as enemies' property, but, on the contrary, having sailed from a port of the United States prior to the 21st of April,
12 1898, and being bound to another port of the United States, which in the ordinary course of her voyage she would have reached and left with her coals long prior to May 21st, 1898, was exempt from capture as prize of war.

(S'd) JUAN DE LUZARRAGA.

Sworn to before me this 18th day of May, 1898.

(S'd) J. OTTO, *D'y Clerk.*

(Endorsed:) Filed May 18th, 1898. (S'd) E. O. Locke, clerk.

Spring Term U. S. District Court, Southern District of Fla., Monday, May 23rd, 1898.

Present: Hon. James W. Locke, judge.

THE UNITED STATES OF AMERICA
vs.
THE S. S. BUENA VENTURA & CARGO. } Prize.

Question of the cargo is submitted without argument.

The question of the vessel is argued, submitted, and decision is reserved.

(*Decree.*)

In the District Court of the United States, Southern District of Florida. In Admiralty.

13 UNITED STATES *against* SPANISH STEAMER "BUENA VENTURA" & CARGO. } Prize.

This cause having come on to be heard upon the allegations of the libel, the claims of the master, and testimony taken *in preparatorio*, and the same having been fully heard and considered, and it appearing to the court that the said steamer Buena Ventura was enemy's property, and was upon the high seas and not in any port or place of the United States upon the outbreak of the war, and was liable to condemnation and seizure, it is ordered that the same be condemned and forfeited to the United States as lawful prize of war; but it appearing that the cargo of said steamer was the property of neutrals, and not contraband or subject to condemnation and forfeiture, it is ordered that said cargo be released and restored to the claimants for the benefit of the true and lawful owners thereof.

It is further ordered that the marshal proceed to advertise and sell said vessel and make deposit of the proceeds in accordance with the law.

Key West, Fla., May 27th, 1898.

(S'd) JAMES W. LOCKE, *Judge.*

(Endorsed:) Filed May 27th, 1898. (S'd) E. O. Locke, clerk.

14 Spring Term U. S. District Court, Southern District Fla., Friday, May 27th, 1898.

Present: Hon. James W. Locke, judge.

THE UNITED STATES OF AMERICA *vs.* S. S. BUENA VENTURA & CARGO. } Prize.

Now comes Convers & Kirlin and G. Bowne Patterson, Esqrs., and in open court gives notice of their appeal in said cause on behalf of the said S. S. Beuna Ventura.

(*Prayer for Appeal.*)

United States District Court, Southern District of Florida.

THE UNITED STATES, Libellant, Appellees, *against* THE STEAMSHIP BUENA VENTURA; JUAN DE LUZARRAGA, Claimant, Appellant. } Prize.

And now comes Juan de Luzarraga, claimant, considering himself aggrieved by the decision and decree of condemnation herein,

and alleging error in the said decree appears in open court and appeals therefrom to the Supreme Court of the United States; he presents herewith an assignment of the errors complained of and a bond for costs, with surety in the sum directed by the court, and thereupon prays that his said appeal may be allowed, and
15 that the record and all proceedings may be duly certified to the Supreme Court of the United States in accordance with the rules and practice for such cases made and provided, to the end that the said appeal may be heard and determined by the said court.

Key West, Fla., May 28th, 1898.

(S'd) JUAN DE LUZARRAGA.

(S'd) CONVERS & KIRLIN,
(S'd) G. BOWNE PATTERSON,
Proctors for Appellant.

(*Order Allowing Appeal.*)

Upon reading and filing the foregoing notice and prayer of appeal and the assignment of errors and bond on appeal, the appeal of the claimant, Juan de Luzarraga, is hereby allowed.

Key West, Fla., May 28th, 1898.

(S'd) JAMES W. LOCKE,
U. S. District Judge.

(Endorsed:) Filed May 28th, 1898. (S'd) E. O. Locke, clerk.

(*Assignment of Errors.*)

United States District Court, Southern District of Florida.

THE UNITED STATES, Appellees,
vs.
THE BUENA VENTURA, Appellant. } Prize.

16 The claimant and appellant assigns error to the final decision and decree of the district court as follows:

1st. For — the court held and decided that the Buena Ventura was lawful prize of war.

2nd. For that the court omitted and refused to hold that the Buena Ventura was not lawful prize of war.

3rd. For that the court omitted and refused to find that the Buena Ventura was privileged and exempt from capture and condemnation as prize under and by virtue of the President's proclamation issued April 26th, 1898.

4th. For that the court omitted and refused to hold that the Buena Ventura was privileged and exempt from capture and condemnation under the fifth article of the President's proclamation by reason of the fact that she was bound to a port or place in the United States and had sailed on her then voyage from a foreign port prior to April 21st, 1898.

5th. For that the court omitted and refused to find that the Buena Ventura was exempt from capture and condemnation by

reason of the fact that her cargo had been taken on board and she had departed therewith from a port of the United States prior to May 21st, 1898.

6th. For that the court omitted and refused to hold that the vessel was privileged and exempt from condemnation by reason of the fact that she was in a port or place of the United States on April 26th, 1898, and was not within the classes of vessels excepted from the privileges accorded by the fourth article of the proclamation.

7th. For that the court omitted and refused to find that the Buena Ventura was in a place within the United States on April 21st and April 22nd, at the time of her capture, and hence was privileged and exempt from capture and condemnation under
17 the fourth article of the President's proclamation.

(S'd) CONVERS & KIRLIN,
(S'd) G. BOWNE PATTERSON,
Proctors for Claimant.

(Endorsed:) Filed May 28th, 1898. (S'd) E. O. Locke, clerk.

(*Bond.*)

United States District Court, Southern District of Florida.

THE UNITED STATES OF AMERICA
against
THE BUENA VENTURA.

Know all men by these presents that we, Juan de Luzarraga, principal, and The American Surety Company, surety, are held and firmly bound unto the United States of America in the sum of five hundered dollars, to be paid to the said United States of America; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Sealed with our se*l*as and dated the 28th day of May, 1898.

Whereas lately, at a session of this court, in a cause of prize pending therein, wherein The United States is libellant against the steamship Buena Ventura and her cargo and the said Juan de
18 Luzarraga is claimant of the steamship, a final decree was rendered in favor of said libellant, and the said claimant having fil*ing* his appeal papers and having obtained an order granting his appeal to the Supreme Court of the United States:

Now the condition of the above obligation is such that if the said Juan de Luzarraga shall prosecute his said appeal to effect and answer all damages and costs if he fail to make his appeal good, then the above obligation to be void; otherwise to remain in full force and effect.

(S'd) JUAN DE LUZARRAGA.
(S'd) THE AMERICAN SURETY COMPANY OF NEW YORK,
By GEO. W. ALLEN, *Att'y-in-fact.*

Taken and acknowledged before me May 28th, 1898.
(S'd) JULIUS OTTO,
[SEAL.] *U. S. Commissioner.*

Approved:
(S'd) JAMES W. LOCKE, *Judge.*

(Endorsed:) Filed May 28th, 1898. (S'd) E. O. Locke, clerk.

(*Order of Court Extending Time to File Record.*)

19 In the United States District Court, Southern District of Florida.

UNITED STATES OF AMERICA
vs.
THE STEAMER BUENA VENTURA AND HER CARGO.

This court having heretofore entered a final decree in the above-entitled cause condemning the said steamer and certain of her cargo, it is now, upon the underwritten consent of the United States attorney for the southern district of Florida and motion of J. Parker Kirlin, proctor for the claimant of said steamer and claimants of her cargo, ordered that the time of the claimants of the said steamer and her cargo to file a record on appeal herein and to perfect their said appeals be, and hereby is, extended for thirty days from June 25th, 1898.

(S'd) JAMES W. LOCKE, *Judge.*

I hereby consent to the entry of the foregoing order.
(S'd) J. N. STRIPLING,
U. S. Attorney.

(Endorsed:) Filed June 24th, 1898. (S'd) E. O. Locke, clerk.

20 *Standing Interrogatories*

Established by the district court of the United States for the southern district of Florida to be administered in prize causes in said court to all persons who may be produced as witnesses to be examined *in preparatorio.*

1st interrogate. What is your name, where were you born, and where have you lived for the last seven years? Where do you now live, and how long have you lived in that place? To what prince or State, or to whom are you, or have you ever been, a subject? Are you a married man, and if married, where do your wife and family reside?

2d interrogate. Were you present at the time of taking and seizing the ship, or her lading, or any of the goods or merchandises concerning which you are now examined? Had the ship concerning which you are now examined any commission; what, and from whom?

3d interrogate. In what place, latitude or part, and when, was the said ship and goods concerning which you are now examined, taken and seized? Upon what pretence, and for what reasons were they seized? Into what port were they carried, and under what colors did the said ship sail? What other colors had you on board, and for what reason had you such other colors? Was any resistance made, at the time when the said ship was taken? and if yea, how many guns were fired? and by whom? and by what ship or ships were you taken? Was the ship or vessel by which you were captured a ship of war, or a vessel acting without any commission, as you believe? Were any other and what ships in sight, at the time of the capture?

4th interrogate. What is the name of the master or commander of the ship or vessel taken? How long have you known the said master, and who appointed him to the command of said vessel? Where did said commander take possession of her, at what time, and what was the name of the person who delivered the possession to the said master? Where doth he live? Where is the said master's fixed place of abode, and where doth he generally reside? How long has he lived there, where was he born, and of whom is he now a subject? Is he married? If yea, where does his wife and family reside?

5th interrogate. Of what burden is the vessel which has been taken? What was the number of her mariners, and of what country were the said seamen and mariners? Did they all come on board at the same port, or at different ports, and who shipped or hired them, and when and where?

6th interrogate. Had you, or any of the officers or mariners belonging to the ship or vessel, concerning which you are now examined, any, and what, part, share or interest in the said vessel or her lading? If yea, set forth who and what goods or interest you or they have? Did you belong to the said vessel, at the time she was seized and taken? In what capacity did you belong to her? How long have you known her? When and where did you first see her, and where was she built?

7th interrogate. What is the name of the vessel? How long has she been so called? Do you know of any other name or names, and what are they, by which she has heretofore been called? Had she any passport or sea chart on board, and from whom? To what ports and places did she sail, during her said voyage, before she was taken? Where did her last voyage begin, and where was the said voyage to have ended? From what port, and at what time, particularly from the last clearing port, did the said ship sail, previously to the capture? Set forth all the ports to which she has sailed, and at which she has touched and traded, during her whole voyage, out and home.

8th interrogate. What lading did the said vessel carry, at the time of her first setting sail on her last voyage, and what sort of lading and goods had she on board, at the time she was taken? When was the same put on board? Set forth the different species of lading, and the quantity of each sort. Has any part of the cargo

of said vessel been unladen, since the commencement of her original voyage? If so, at what ports or places was it unladen? State the articles which were unladen.

9th interrogate. Who were the owners of the vessel, at the time when she was seized? How do you know that they were owners at that time? Of what nation or country are such owners by birth? Where do they reside, and where do their wives and families reside? How long have they resided there? Where did they reside before, to the best of your knowledge? To whom are they subject? How long have the present owners been in possession? and of whom did they purchase?

10th interrogate. Was any bill of sale made, and by whom, to the aforesaid owners of said vessel? and if any such were made, in what month and year, and where, and in the presence of what witnesses? Was any, and what, engagement entered into concerning the purchase, further than appears on the bill of sale? If yea, was it verbal or in writing? Where did you last see it, and what has become of it?

11th interrogate. Was the said lading put on board at one port and at one time, or at several ports and at several times, and at what ports, by name? Set forth what quantities of each sort of goods were shipped at each port.

12th interrogate. What are the names of the respective laders or owners, or consignees of said goods? What countrymen are they? Where do they now live and carry on their business? How long have they resided there? Where did they reside before, to the best of your knowledge? And where were the said goods to be delivered, and for whose real account, risk or benefit? Have any one of the said consignees or shippers, any and what interest in the said goods? If yea, whereon do you found your belief that they have such interest? Do you verily believe, that at the time of the lading the cargo and at the present time, and also if said goods shall be restored and unladen at the destined port, the goods did, do, and will belong to the same persons, and to none others?

21 13th interrogate. How many bills of lading were signed for the goods seized on board the said ship? Were any of those bills of lading false or colorable, or were any bills of lading signed, which were different in any respect from those which were on board the ship at the time she was taken? What were the contents of such other bills of lading, and what became of them?

14th interrogate. Are there in the United States of America any bills of lading, invoices, letters or instruments relative to the ship and goods, concerning which you are now examined? If yea, set forth where they are, and in whose possession, and what is the purport thereof, and when they were brought or sent to the United States.

15th interrogate. Was there any charter-party signed for the voyage, in which the ship, concerning which you are now examined, was seized and taken? What became thereof? When, where,

and between whom, was such charter-party made? What were the contents of it?

16th interrogate. What papers, bills of lading, letters or other writings, were on board the ship, at the time she took her departure from the last clearing port, before her being taken as prize? Were any of them burnt, torn, thrown overboard, destroyed or cancelled, or attempted to be concealed, and when, and by whom, and who was then present?

17th interrogate. Has the ship, concerning which you are now examined, been, at any time, and when, seized as a prize, and condemned as such? If yea, set forth into what port she was carried, and by whom, and by what authority, or on what account she was condemned?

18th interrogate. Have you sustained any loss by the seizing and taking the ship, concerning which you are now examined? If yea, in what manner do you compute such your loss? Have you already received any indemnity, satisfaction or promise of satisfaction, for any part of the damage which you have sustained, or may sustain, by this capture and detention, and when, and from whom?

19th interrogate. Is the said ship, or goods, or any, and what part, insured? If yea, for what voyage is such insurance made, and at what premium, and when, and by what persons, and in what country was such insurance made?

20th interrogate. In case you had arrived at your destined port, would your cargo, or any part thereof, on being unladen, have immediately become the property of the consignees, or any other person, and whom? Or was the lader to take the chance of the market for the sale of his goods?

21st interrogate. Let each witness be interrogated of the growth, produce, and manufacture of what country and place was the lading of the ship or vessel, concerning which you are now examined, or any part thereof.

22d interrogate. Whether all the said cargo, or any, and what part thereof, was taken from the shore or quay, or removed or transhipped from one boat, barque, vessel or ship, to another? From what, and to what shore, quay, boat, barque, vessel or ship, and when and where, was the same so done?

23d interrogate. Are there, in any other country, and where, or on board any and what ship or ships, vessel or vessels, other than the ship and vessel concerning which you are now examined, any bills of lading, invoices, letters, instruments, papers or documents, relative to the said ship, or vessel and cargo, and of what nature are such bills of lading, invoices, letters, instruments, papers or documents, and what are the contents? In whose possession are they, and do they differ from any of the papers on board, and in what particular do they differ?

24th interrogate. Were any papers delivered out of the said ship or vessel, and carried away in any manner whatsoever? And when, and by whom, and to whom, and in whose custody, possession or power, do you believe the same now are?

25th interrogate. Was bulk broken during the voyage in which

you were taken, or since the capture, of the said ship? And when, and where, by whom, and by whose orders, and for what purpose, and in what manner?

26th interrogate. Were any passengers on board the aforesaid ship? Were any of them secreted, at the time of the capture? Who were the passengers, by name? Of what nation, rank, profession or occupation? Had they any commission? For what purpose, and from whom? From what place were they taken on board, and when? To what place were they finally destined, and upon what business? Had any, and which of the passengers, any, and what property or concern, or authority, directly or indirectly, regarding the ship and cargo? Were there any officers, soldiers or mariners secreted on board and for what reason were they secreted? Were any of the citizens of the United States on board, or secreted or confined, at the time of the capture? How long, and why?

27th interrogate. Were, and are, all the passports, sea briefs, charter-parties, bills of sale, invoices and papers, which were found on board, entirely true and fair? Or are any of them false or colorable? Do you know of any matter or circumstances to affect their credit? By whom were the passports or sea briefs obtained, and from whom? Were they obtained for this ship only? And upon the oath, or affirmation, of the persons therein described, or were they delivered to, or on behalf of the person or persons who appear to have been sworn, or to have affirmed thereto, without their having ever, in fact, made any such oath or affirmation? How long time were they to last? Was any duty or fee payable, and paid, for the same? And is there any duty or fee to be paid on the renewal thereof? Have such passports been renewed, and how often? And has the duty or fee been paid for such renewal? Was the ship in a port in the country where the passports and sea briefs were granted? And if not, where was the ship at the time? Had any person on board any let-pass, or letters of safe conduct?

If yea, from whom and for what business? Had the said
22 ship any license or passport from any foreign power or authority during the voyage? If so, state from whom been obtained, and for what purpose and use.

28th interrogate. Have you written or signed any letters or papers concerning the ship and her cargo, other than those found on board and delivered to the captors? If yea, what was their purport, to whom were they written and sent, and what has become of them?

29th interrogate. Towards what port or place was the ship steering her course, at the time of her being first pursued and taken? Was her course altered, upon the appearance of the vessel by which she was taken? Was her course, at all times, when the weather would permit, directed to the place or port for which she appears to have been destined by the ship's papers? Was the ship, before or at the time of her capture, sailing beyond, or wide of the said place or port to which she was so destined by the said ship's papers? At what distance was she therefrom? Was her course altered, at any, and what time, and to what other port or place, and for what reason?

30th interrogate. By whom, and to whom, hath the said ship been sold or transferred, and how often? At what time, and at what place, and for what sum or consideration, hath such sum or consideration been paid or satisfied? Was the sum paid, or to be paid, a fair and true equivalent? Or what security or securities have been given for the payment of the same, and by whom, and where do they live now? Do you know, or believe, in your conscience, such sale or transfer has been truly made, and not for the purposes of covering or concealing the real property? Do you verily believe, that if the ship should be restored, she will belong to the persons now asserted to be the owners, and to none others?

31st interrogate. What guns were mounted on board the ship, and what arms and ammunition were belonging to her? Why was she so armed? Were there on board any other, and what, arms and ammunition, and when and where — they put on board? And by whom, or by what authority, or for what purpose or destination, and on whose account were they put on board?

32d interrogate. What is the whole which you know or believe, according to the best of your knowledge and belief, regarding the real and true property and destination of the ship and cargo concerning which you are now examined at the time of the capture?

23 In the District Court of the United States in and for the Southern District of Florida. In Admiralty.

THE UNITED STATES OF AMERICA
vs.
THE SPANISH STEAMER BUENA VENTURA AND CARGO. } Prize.

Deposition of Juan de Luzarraga, a witness produced, sworn, and examined *in preparatorio* on the 4th day of May, in the year 1898, at the U. S. court-house, Key West, Florida, in said district, on the standing interrogatories established by the district court of the United States for the southern district of Florida, the said witness having been produced for the purpose of such examination in behalf of the captors of a certain ship or vessel called the Buena Ventura.

1st. To the first interrogatory deponent answers:

My name is Juan de Luzarraga; born at Mondaca, Spain. I have been navigating the ocean for the last seven years. I claim Mondaca, Spain, as my home, and it has been my home since I was born. I am a subject of Alphonso XIII, King of Spain. I am not married.

2d. To the 2nd interrogatory deponent answers:

I was present at the time of the taking and seizing of the said ship and her cargo. The said ship had a royal patent from the Spanish government to engage in the merchant business.

3d. To the 3rd interrogatory deponent answers:

24 The ship was captured about 8 or 9 miles from Sand Key light-house, near Key West, on account of the war existing

between the United States and Spain. The ship sailed under the Spanish flag, and was carried into the port of Key West. She was captured on the 22nd day of April, A. D. 1898. I had no other national flag on board. There was no resistance made at the time of capture of said ship. The ship was captured by the U. S. man-of-war Na-hville. I saw several other war ships in sight, but I do not know their names.

4th. To the 4th interrogatory deponent answers:

The name of the master of the ship is Juan de Luzarraga. I was appointed captain by the owners of said ship, Messrs. Larrinaga & Co. I took charge of the ship about three years ago. The owners of the ship placed me in command.

5th. To the 5th interrogatory deponent answers:

The ship captured is of 1,332 tons register. There are 34 mariners, including myself, on said vessel. They are subjects of Spain. I shipped the crew myself. They are shipped at the port of Santandere, Spain, and two of them being shipped at Liverpool, England.

6th. To the 6th interrogatory deponent answers:

None of the crew or officers of the ship had any interest in the said ship or her cargo. I have know- the ship for about 12 years. I first knew her in Liverpool. She was built in Sunderland, England.

7th. To the 7th interrogatory deponent answers:

The name of the vessel was Buena Ventura. She has been called by that name ever since I have known her. She has never had any other name, so far as I know. We had clearance papers from the collector of customs at Scranton, Miss.; also papers from the Spanish consul. The last voyage began at Scranton, to Rotterdam, Holland. The said ship cleared from Scranton on the 14th day of April, 1898, and sailed on the 19th day of April, A. D. 1898.

8th. To the 8th interrogatory deponent answers:

When the ship left Santandere on her last voyage, bound for Cuba and Porto Rico, she had a general cargo of provisions and clothing, which I delivered at said places. When the said ship left Cuba for the United States she had no cargo on board except ballast. When the said ship was captured she had on board about 800,000 feet of lumber. The cargo was put on board from the 1st day of April, 1898, to the 13th day of April, 1898. No part of the said cargo has been unladen since the commencement of the voyage.

9th. To the 9th interrogatory deponent answers:

The owners of the vessel at the time of her seizure were Messrs. Larrinaga & Co., of Liverpool, Eng. The ship's papers show that the said persons are the owners of said vessel and the Royal patent shows the same. The said owners are Spanish subjects by birth. They and their wives and families reside in Liverpool, England. They have resided there about one year and a half. They have been in possession of her ever since I have known her, about 12 years. I do not know from whom the present owners purchased said vessel.

10th. To the 10th interrogatory deponent answers:

I do not know anything about any bill of sale for said vessel.

11th. To the 11th interrogatory deponent answers:

26 The said lumber was all put on board at one time at Scranton, Miss.

12th. To the 12th interrogatory deponent answers:

I cannot tell the names of the respective owners or laders of said cargo. The manifest and bill of lading will show that. I do not know the nationality of the owners of said cargo. The lumber is consigned to persons in Rotterdam, but I do not know who owns it. The goods were to be delivered at Rotterdam, I suppose, to the account of the consignees, yet I do not know this to be so.

13th. To the 13th interrogatory deponent answers:

I think there were three bills of lading signed for each lot of lumber shipped. These bills of lading were true. No bills of lading were signed which are different from those on board my vessel. They were all alike.

14th. To the 14th interrogatory deponent answers:

Yes; there is a copy of the bills of lading in Scranton, Miss. The agent is in Scranton, Miss., and is named Casser.

15th. To the 15th interrogatory deponent answers:

The ship at the time she was seized was under a charter-party signed for the voyage. I gave it up with the other papers to the capturing ship. I do not know when or between whom the charter-parties were made, except that I suppose the owners of the ship were parties on one side. I do not know the contents of the charter-party.

16th. To the 16th interrogatory deponent answers:

Only the papers taken by the officers were on board at the
27 time of the capture. None of them were secreted, burned, torn, or destroyed.

17th. To the 17th interrogatory deponent answers:

I do not know whether or not the said ship has ever been seized or captured as a prize previous to this.

18th. To the 18th interrogatory deponent answers:

Personally I have not sustained any loss by the capture of this vessel. I have not received any indemnity or promise of indemnity, owing to this capture, from any one.

19th. To the 19th interrogatory deponent answers:

I do not know whether or not said cargo or ship was insured.

20th. To the 20th interrogatory deponent answers:

I do not know who the cargo would belong to if it were to be delivered.

21st. To the 21st interrogatory deponent answers:

I do not know what country or place produced or raised the lumber of which the ship was laden. I suppose it came from the United States.

22d. To the 22nd interrogatory deponent answers:

The cargo was brought from shore to my ship, at Ship Island, on the 31st day of March, 1898, up to the 13th day of April, 1898.

23d. To the 23rd interrogatory deponent answers:

I do not know of any other papers in the U. S. or anywhere else that relate to the cargo other than has been set forth previous to this.

24th. To the 24th interrogatory deponent answers:

Papers were delivered out of the ship to the officers of the capturing ship. I believe the said papers are in the hands of this court.

28 25th. To the 25th interrogatory deponent answers:

None of the cargo was taken out during the voyage or since the capture.

26th. To the 26th interrogatory deponent answers:

There were no passengers, officers, soldiers, marines, or citizens on board said ship at the time of her capture.

27th. To the 27th interrogatory deponent answers:

All the papers found on board the ship were true and correct. I do not know of anything which would affect the credit of said papers. No person on board of my ship had any passport, &c. The ship had only a royal patent from the Spanish authority.

28th. To the 28th interrogatory deponent answers:

I have not written any letter or papers since the capture of said ship, except a telegram to the owners requesting money for the sustinence of the crew.

29th. To the 29th interrogatory deponent answers:

At the time of the ship being first pursued and captured she was steering near the coast, along the Florida reef, bound for Norfolk for coal. I did not change the course after being pursued by the capturing vessel. The course was, at all times when the weather would permit, *was* directed toward the port for which the vessel, according to her papers, was destined. The ship was not at any time off her course or beyond or wide of her destination, as shown by the ship's papers. Her course was altered for Key West after she was captured.

30th. To the 30th interrogatory deponent answers:

29 I do not know if the ship was ever transferred or sold. If the ship was restored or released I believe she would belong to the owners named.

31st. To the 31st interrogatory deponent answers:

There were no guns mounted on board said ship. I had one gun, the pilot had another, and the engineer had a pistol.

32d. To the 32nd interrogatory deponent answers:

I believe the said ship was on her regular trade in the merchant service and that the cargo and ship belong to the parties mentioned.

(S'd) JUAN DE LUZARRAGA.

Sworn to and subscribed before me this 4th day of May, A. D. 1898.

(S'd) J. M. PHIPPS,
Prize Commissioner.

In the District Court of the United States in and for the Southern District of Florida. In Admiralty.

THE UNITED STATES OF AMERICA
vs.
THE S. S. BUENA VENTURA & CARGO. } Prize.

Deposition of Silvestre Asteinza, a witness produced, sworn, and examined *in preparatorio* on the 4th day of May, A. D. 1898, at the U. S. court-house, Key West, Florida, in said district, on the standing interrogatories established by the district court of the United States for the southern district of Florida, the said witness having been produced for the purpose of such examination in behalf of the captors of a certain ship or vessel called the
30 Buena Ventura and her cargo.

1st. To the 1st interrogatory deponent answers:

My name is Silvestre Asteinza; in Mituria, Spain. I have been navigating the seas for the last seven years. I am a subject of Spain. I am not married.

2d. To the 2nd interrogatory deponent answers:

I was present at the time of the capture of the Buena Ventura. I do not know whether she had any commission or not.

3d. To the 3rd interrogatory deponent answers:

At the time of the capture the vessel was about 8 or 9 miles from Sand Key light-house, on the Florida reefs. The vessel was seized on account of the war between the United States and Spain. The vessel was taken into the port of Key West. She sailed under the Spanish flag. We had no other colors on board. There was no resistance made at the time the ship was captured. The man-of-war that captured the ship fired three guns at her. The Nashville made the capture. She is a ship of war, the one that made the capture. There were several ships near by, but I do not know their names.

4th. To the 4th interrogatory deponent answers:

The name of the captain of the ship is Juan de Luzarraga. I have known him about two years. I do not know where the captain took possession of the vessel. The captain lives in a town in Spain called Mondaca. I do not know how long it has been his place of residence. He is a subject of Spain. He is not married.

31 5th. To the 5th interrogatory deponent answers:

The vessel is of 1,331 tons, registered Spanish. She had on board 34 mariners, including the captain. They are all Spanish subjects. At different ports they were shipped. They were hired by the captain.

6th. To the 6th interrogatory deponent answers:

I have no interest in the ship or cargo. I was 1st officer of the vessel at the time she was captured. I have known the vessel for two years. I first saw her in Liverpool, England. I do not know where she was built.

7th. To the 7th interrogatory deponent answers:

The name of the vessel is the Buena Ventura. She has been called by that name ever since I knew her. I do not know if she has been called by any other name. I do not know if she has any passports except the royal patent. The last voyage commenced at Liverpool and was to have ended at Rotterdam, Holland. At the last voyage, and before she was captured, we left Ship Island for Norfolk on the 19th day of April, 1898. We touched at the ports of Liverpool, Santander, San Juan de Porto Rico, Havana, Manzanillo, Cienfuegos, Ship Island on our last voyage previous to being captured.

8th. To the 8th interrogatory deponent answers:

We had on board a general cargo when we left Liverpool. When we were captured we had on board a cargo of lumber; that cargo was put on board on the 1st day of April. I do not know how much lumber we had on board. No part of the cargo has been unladen since we left port.

9th. To the 9th interrogatory deponent answers:

32 The owners of the vessel at the time of her capture, Larrinaga & Co., of Liverpool. I have no other to the contrary. The owners are by birth Spanish subjects. They and their families live in Liverpool; some of them live in Spain. I do not know how long they have lived in said places. I believe and have always heard that they are subjects of Spain. I do not know how long they have owned said ship.

10th. To the 10th interrogatory deponent answers:

I know nothing in relation to the matters and things set forth in the last question.

11th. To the 11th interrogatory deponent answers:

The cargo was put on board at one time, in one port.

12th. To the 12th interrogatory deponent answers:

I do not know the consignees or owners of said cargo. The cargo was to be delivered at Rotterdam, Holland.

13th. To the 13th interrogatory deponent answers:

I know nothing about the bills of lading being signed for this cargo.

14th. To the 14th interrogatory deponent answers:

I know nothing about any bills of lading and invoices in the United States.

15th. To the 15th interrogatory deponent answers:

I know nothing about any charter-party for the voyage.

16th. To the 16th interrogatory deponent answers:

I do not know anything about any papers on board, and do not know if any of them were cancelled, destroyed, or burned or thrown overboard.

17th. To the 17th interrogatory deponent answers:

33 I do not know whether or not said ship was ever before captured.

18th. To the 18th interrogatory deponent answers:

I have not sustained any loss by this capture. I have not re-

ceived any indemnity, promise of satisfaction -or any damage sustained or which may be sustained.

19th. To the 19th interrogatory deponent answers:

I do not know if the ship or her cargo was insured.

20th. To the 20th interrogatory deponent answers:

I do not know anything in relation to the matters and things therein interrogated in the above question.

21st. To the 21st interrogatory deponent answers:

I do not know where the cargo was produced.

22d. To the 22nd interrogatory deponent answers:

The whole cargo was taken on board at Ship Island, in lighters, between April 1st and April 14th, 1898.

23d. To the 23rd interrogatory deponent answers:

I do not know anything about the ship's papers.

24th. To the 24th interrogatory deponent answers:

I saw one of the officers take away some papers, but I do not know what papers were taken. The officer was from the man-of-war. I do not know where those papers are.

25th. To the 25th interrogatory deponent answers:

None of the cargo has been taken out since the voyage commenced or since we were captured.

26th. To the 26th interrogatory deponent answers:

There are no passengers, soldiers, mariners, officers on
34 board or secreted on board the ship. There were no citizens of the United States secreted or confined on board said vessel.

27th. To the 27th interrogatory deponent answers:

I know nothing in relation to the matters and things interrogated in the foregoing question.

28th. To the 28th interrogatory deponent answers:

I have not signed any letters—papers concerning the ship and cargo—since I was captured.

29th. To the 29th interrogatory deponent answers:

We were about 9 miles from Sand Key, and were steering east, intending to go to Norfolk for coal. The course was not altered upon the appearance of the vessel that captured us. The course was at all time- directed toward our point of destination, as shown by the ship's papers. The ship before her capture was not sailing beyond or wide of her place of destination. The course was altered after we were captured. We came into Key West as a prize.

30th. To the 30th interrogatory deponent answers:

I know nothing in relation to the matters and things therein interrogated.

31st. To the 31st interrogatory deponent answers:

There were no guns on board belonging to said vessel. There were two shotguns on board, the property of the captain and myself.

32d. To the 32nd interrogatory deponent answers:

I know nothing — in relation to the ship and cargo than what I have already stated.

(S'd) SILVESTRE ASTEINZA.

35 Sworn to and subscribed before me this 4th day of May, A. D. 1898.

(S'd) J. OTTO,
Prize Commissioner.

36 District Court of the United States, Southern District of Florida. In Admiralty.

I, Eugene O. Locke, clerk of said court, hereby certify that the foregoing document of thirty-five (35) pages is a true copy of the record in the cause of The United States *vs.* Str. "Buenaventura" and cargo, prize, lately adjudicated in said court, and remaining on file in my office.

Witness my hand and the seal of said court this twenty-second day of July, in the year of our Lord one thousand eight hundred and ninety-eight, and of American Independence the one hundred and twenty-third.

{ Seal District Court of the United States, Southern District of Florida. }

EUGENE O. LOCKE, *Clerk.*

United States District Court, Southern District of Florida.

I, James W. Locke, judge of said court, hereby certify that Eugene O. Locke, whose own genuine signature appears above, is as he represents himself to be, clerk of said court, and his attestations as such are entitled to full faith and credit.

JAMES W. LOCKE, *Judge.*

37 *Opinion.*

U. S. District Court, Southern District of Florida.

THE UNITED STATES
vs.
THE SPANISH STEAMSHIPS "BUENA VENTURA," "PANAMA," "Catalina," "Miguel Jover," "Pedro," and "Guido" and Cargoes. } Prize.

The questions involved in these several cases, being of the same character, have been considered together.

Of these vessels the "Buena Ventura" cleared from the port of Scranton, Miss., on the 16th of April, 1898, and sailed with a cargo of lumber for Rotterdam the 19th of that month, and was captured in the straits of Florida, between Key West and Cuba, on the 22nd by the U. S. S. "Nashville;" the "Panama" cleared and sailed from New York for Havana with an assorted cargo on the 20th of the same month, and was captured on the 25th by the U. S. S. "Mangrove," while approaching that port; the "Catalina" and the "Miguel Jover," laden with cotton and staves, cleared from New Orleans on the 21st of the same month, and sailed the evening of the

same day for Barcelona and Genoa; the "Catalina" was captured by the U. S. S. "Detroit" and the "Miguel Jover" by the U. S. S. "Helena," both on the 24th; the "Pedro," which had sailed from Antwerp some time before, had been into Havana, had cleared for Santiago, Cuba, and was captured on the 22nd of the same month, about twelve miles from the port of Havana, by the U. S. S. "New York," and the "Guido," from Liverpool, bound for Havana by the way of Santander, Cuwana, and La Puebla, was captured on the 27th by the U. S. S. "Terror."

They are all Spanish vessels, sailing under the Spanish flag, with royal patents, officered and manned by Spaniards, and with the exception of the "Pedro" and "Guido" no question has been
38 raised as to their being enemy's property.

They were all merchant vessels, engaged in regular lines of commerce, and this, and the hardship and injustice of the captures before a declaration of war, has been strenuously urged in argument as contrary to the humane policy of our Government, in addition to the provisions of the President's proclamation.

The principles of the law of prize have been so often and so distinctly declared by the highest courts of all civilized countries that they need no extended review here. The law of prize is a law of war, of might, and of force, which is to be exercised at the order and behest of the Executive, and not upon the principles of policy or equity; and while prize courts, where questions of doubt arise, yield as far as possible to the claims of humanity and respect for personal rights, yet they cannot be controlled by such considerations.

The former rule of the law of prize was that the belligerent had a right to capture the property of the opposing belligerent or antagonist under any circumstances, and to injure him in any way by depriving him of his property.

That was the original practice, but it has been restricted by the gradual advance of civilization until, by the prize law of today, as accepted, the captor has the right, in the absence of any declaration of exemption by the political power, to capture, wherever and whenever found afloat, anything which belongs to or is the property of the enemy.

Whenever it is claimed that there is an exemption made by proclamation or by ordinance, the burden of proof is upon the claimant to show that the particular case comes within the exemption, and although such proclamation or ordinance is to be liberally construed in behalf of the claimants, there must be found therein sufficient language to justify the court in finding that the intention was to exempt from seizure the class of property under in-
39 vestigation. The language to justify an exemption must be found. It cannot be presumed from international history or policy nor from the principles of justice, generosity, or humanity.

The important questions in the cases now pending arise upon the construction of the proclamation of the President of the United States of April 26th, 1898.

As that is construed by the claimants of the several steamships, each one of them comes within some provision of this proclamation which exempts it from the liability of capture and condemnation, but as construed by the attorneys for the captors not one of them is so exempt.

The proclamation is as follows:

"By the President of the United States of America:

A Proclamation.

"Whereas, by an act of Congress approved April 25th, 1898, it is declared that war exists and that war has existed since the 21st of April, 1898, including said day, between the United States of America and the Kingdom of Spain; and

Whereas, it being desirable that such war should be conducted upon principles in harmony with the present views of nations and sanctioned by their recent practice, it has already been announced that the policy of this Government will be not to resort to privateering, but to adhere to the rules of the declaration of Paris:

Now, therefore, I, William McKinley, President of the United States of America, by virtue of the power vested in me by the Constitution and the laws, do hereby declare and proclaim:

1. The neutral flag covers enemy's goods, with the exception of contraband of war.

2. Neutral goods, not contraband of war, are not liable to confiscation under the enemy's flag.

3. Blockades in order to be binding must be effective.

4. Spanish merchant vessels in any ports or places within the United States, shall be allowed until May 21st, 1898, inclusive, for loading their cargoes and departing from such ports or places; and such Spanish merchant vessels, if met at sea by any United States ship, shall be permitted to continue their voyage, if, upon examination of their papers, it shall appear that their cargoes were taken on board before the expiration of the above term: Provided, that nothing herein contained shall apply to Spanish vessels having on board any officer in the military or naval service of the enemy; or any coal (except such as may be necessary for their voyage) or any other article prohibited or contraband of war, or any dispatch of or to the Spanish government.

5. Any Spanish merchant vessel which, prior to April 21st, 1898, shall have sailed from any foreign port bound for any port or place in the United States, shall be permitted to enter such port or place, and to discharge her cargo and afterward forthwith to depart without molestation; and any such vessel, if met at sea by any United States ship, shall be permitted to continue her voyage to any port not blockaded.

6. The right of search is to be exercised with strict regard for the rights of neutrals, and the voyages of mail steamers are not to be interfered with, except on the clearest grounds of suspicion of a violation of law in respect of contraband or blockade.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington on the 26th day of April, in the year of our Lord one thousand eight hundred and ninety-
[SEAL.] eight, and of the Independence of the United States the one hundred and twenty-second.

WM. McKINLEY.

41 By the President:

ALVEY A. ADEE,

Acting Secretary of State."

Examining this proclamation in its several parts, we find, first, the simple declaration and announcement of a recognition of a condition of war existing since the 21st of April, 1898, as declared by the act of Congress of April 25th, 1898; second, a declaration of the desire that such war shall be conducted upon principles in harmony with the present views of nations and sanctioned by recent practice.

This being the declared intention of the Executive, it must be accepted to aid in construing the subsequent declaration- of the proclamation.

The first point in which the Executive desires to continue the practice and be in harmony with the views of nations in that there shall be no privateering; the second, that a neutral flag shall cover the enemy's goods, with the exception of contraband of war, and that neutral goods not contraband of war shall not be liable to forfeiture under the enemy's flag. So far it is very clear that the proclamation has followed the humane practice of all nations more recently established; but, reaching the fourth article of the proclamation, we find it absolutely necessary in these cases, in order to interpret and construe it according to the arguments of either the libellants or the defendants, to read into it some language determining the time at which Spanish merchant vessels should be "in any ports or places within the United States" to give them the right of being allowed until May 21st, 1898, for loading their cargoes and departing. There is no expression of any element of time in this connection to aid in the construction, but upon this depends the causes of the "Catalina" and of the "Miguel Jover," which cleared from New Orleans the evening of April 21st, 1898.

42 It is urged by the claimants that the intention of the proclamation was that the exemption should attach to all Spanish merchant vessels in harbor at the outbreak of the war, and that the words "at that date" or their equivalent should be — understood, while the counsel for the captors contend that there can be no retroactive effect of the proclamation, and the only word that could be — understood is "now."

Which of these views is in harmony with the present view of nations and sanctioned by their recent practice?

Formerly, at the outbreak of war, nations lost no time in seizing enemy's shipping found in their ports, although they had entered in good faith in time of peace; but modern usage condemns such a

breach of national good faith, and recent practice has been to give certain days of grace to shipping found within enemies' ports at the outbreak of war. In the Crimean war, of 1854, Russian vessels were allowed six weeks to leave British ports. In 1870 thirty days were allowed German vessels in French ports, and French vessels in German ports were allowed six weeks to leave. In 1897 (the Greeco Turkish war) fifteen days were allowed by each nation for the vessels of the opposite nation to clear with impunity. In each of these cases the immunity attached from the outbreak of the war.

Was it the intention of this proclamation to apply these days of grace to all vessels in ports of the United States at the outbreak of the war or to those so in port on the day of the actual issuance of the proclamation? If the latter construction is accepted, it certainly would not be in accordance with the present views of nations nor sanctioned by their recent acts. It would leave a space of five days after the commencement of hostilities when, according to such views and practice, they might be considered exempt from seizure and could safely leave port, but upon the issuing of such
43 proclamation became subject to seizure. If they were safe according to the present rule of civilized nations, certainly the issuing of the proclamation at a later day, without declaring that it should be retrospective, should not make them liable.

In the proclamation of the 22nd of April the President had declared that thirty days of grace should be given to neutral vessels found in blockaded ports. Can it be believed that he intended to change the number of days of grace from thirty, already named in one proclamation, to twenty-five in this? Is it not more reasonable to consider that the same number of days was intended, which, commencing at the outbreak of the war, would bring it to the 21st of May, the day named?

While it is true that the rule of construction generally is that statutes have no retrospective or retroactive effect, it is not without exceptions, and the principal question always is, What was the intention of the legislators?

It is contended that the vessels being captured before the proclamation issued, the rights of the captors attached; but if it was the intention to exempt all in port at the outbreak of the war, it is not considered that the attaching of any such right should influence the decision- in these cases. Giving the introductory language of the proclamation the force to which I consider it is entitled, I feel compelled to hold that the intention of the Executive was to fully recognize the recent practice of civilized nations and not to sanction or permit the seizure of the vessels of the enemy within the harbors of the United States at the time of the commencement of war, or to permit them to escape from ports to be seized immediately on entering upon the high seas, and that the fourth article should be held to apply to all Spanish merchant vessels in a harbor of the United States upon April 21st, 1898, and exempt them from seizure. This will effect the release of the "Catalina" and the "Miguel Jover."

In regard to the cargoes of such vessels it cannot be considered that it could be the intention of the Executive or the policy of any nation to permit vessels to take in their cargoes up to a certain time and leave the port free, and then have them seized so that the cargoes should be liable to condemnation. What makes the free vessel makes the free cargo, although it may be found to belong to the enemy.

The fifth article of this proclamation declares that any Spanish merchant vessel which prior to May 21st, 1898, shall have sailed from any foreign port bound to any port or place in the
44 United States shall be permitted to enter such port and discharge her cargo and afterwards to depart without molestation. This raises a question which is not without difficulty in the case against the "Pedro" and the "Guido."

The testimony shows that both these vessels were owned by a Spanish corporation of Bilboa, Spain, and were engaged in regular trade with outward cargoes from European—particularly Spanish—ports to the Cuban ports to discharge, thence to some port of the United States—usually Pensacola—for a load of lumber for the return voyage. The "Guido" had sailed from Liverpool by way of Santander, Corunna, and La Puebla and was bound for Havana. In her regular course, after she had touched at that and several of the Cuban ports, she would have proceeded to Pensacola, and she had among her papers a bill of health for that place, but there was no charter-party or certainty of her going there. She had no cargo for that or any other port of the United States.

The "Pedro," a vessel of the same line, had sailed from Antwerp with cargo destined for several Cuban ports. She had been into Havana, discharged some cargo and taken other on board, and was bound to Santiago. After she had touched there and one or two other Cuban ports for which she had cargo she was under charter to proceed to Pensacola to load lumber for some port in Europe. She had on board no cargo for Pensacola.

It is contended by the claimants of these two vessels that the fact that their ultimate destination, after stopping at the other ports, was a port of the United States to take in a cargo brings them within the provision of the fifth article of the proclamation, as being vessels which prior to April 21st, 1898, had sailed from a foreign port bound for a port or place of the United States, and extended and elaborate arguments were had and cases were cited upon the subject of continuing voyages and their termini. I do not consider that such a construction can be recognized as reasonable when applied to the circumstances of this case, nor that it can for a moment be con-
45 sidered to have been the intention of the proclamation when made.

The reasons for such exemption from seizure are twofold: First, it excuses a vessel which, ignorant of the condition of war, comes directly into the power of the enemy, and is therefore to that extent a protection to commerce, and tends to prevent a breaking up of commercial relations between nations upon the first, and perhaps unfounded, suspicion of unfriendly relations between them

Secondly, as the material increase of a nation's possession- is always desirable upon the outbreak of war, and the importations of foreign cargoes may well be considered to tend toward such increase, it is desirable to encourage this importation, although brought by ships of the enemy.

But neither of these reasons apply to the cases at bar. These vessels would have been informed of the condition of war long before approaching our shores—in fact, a state of war existed before the "Pedro" left Havana—and having no cargo to bring into this country they were only coming to take property away, and in the meantime carrying on commerce in the interest of the enemy between its ports and supplying it with necessary provisions with impunity.

It is also urged by the claimants of these vessels that, although they were owned by a Spanish corporation of Bilboa, La Flecha, the general managers of which were Spanish citizens and resided at Barcelona, a large portion of the stock of this corporation was owned by subjects of Great Britain, who had a lien on or equitable ownership of the rest of the stock; so that in reality the vessels were neutral property, and had only been put under the Spanish flag to take advantage of certain privileges given them in trading to the Spanish West Indies.

It has been repeatedly declared that the property of a house of trade established in an enemy's country is liable to condemnation as prize, whatever may be the domicile of the partners, and
46 this principle will apply with much greater force to the property of a corporation duly incorporated and acting under the laws of an enemy's country, regardless of the domicile of the individual stockholders or any equitable interest neutrals might have in the stock. A mortgage or equitable lien upon the vessel itself, if held by a neutral, could not protect her from seizure, and much less can an equitable interest in the stock of the corporation which is the owner. These vessels were owned by a Spanish corporation, sailing under a royal Spanish patent, flying the Spanish flag, officered and manned by Spanish citizens, nearly, if not quite, all of whom were registered as members of the Spanish naval reserve, and they must be taken and considered as in all respect- property of enemy and subject to forfeiture.

The "Panama" sailed from New York before the 21st of April, 1898, and was upon the high seas at that time and at the time of capture. The fact that there had been no formal proclamation or declaration of war before she had sailed or at the time she was captured, or that she at a recent date left a port of the United States, cannot be considered as exempting her from the liability of all enemy's property to capture unless coming directly within the language of the President's proclamation.

The practice of a formal proclamation before recognizing an existing war and capturing enemy's property has fallen into disuse in modern times, and actual hostilities may determine the date of the commencement of war, although no proclamation have *have* been issued, no declaration made, or no action of the legislative department of the government had. This date has been declared by the

act of Congress of April 25th, 1898, and by the proclamation of the President of the next day to have been April 21st, 1898, including that day; so that any Spanish property afloat captured from
47 that time became liable to condemnation unless exempt by the Executive proclamation.

In the case of the "Buena Ventura" it is shown by the evidence that she cleared from Scranton, Miss., with permission to touch at Newport News for coal on her voyage to Rotterdam. Although she was to touch there for that purpose, it was not a port of discharge, nor was she from a foreign port, and her case clearly does not come within the language of the proclamation. Had she been captured approaching Newport News for the purpose of coaling, even then there might have been some opportunity for argument that the permission to touch had given her encouragement, and it should in justice furnish the same protection as to a vessel coming from a foreign port; but that was not the case. When captured she must have been pursuing the same course she would have pursued had there been no intention to stop for coal, and neither such intention nor permission tended in any way to increase the liability of her capture. She was an enemy's vessel, found upon the high seas at the commencement of the war, and not coming within the exceptions of the proclamation.

Her cargo was shipped by a citizen of the United States to a neutral port, consigned partly to the shipper's order and partly to a citizen of Great Britain, and is unquestionably either neutral or the shipper's property. The suggestion that it should be condemned, although neutral, because found in an enemy's vessel and at the time of the capture there had been no proclamation issued declaring it not subject to condemnation, cannot be entertained for a moment. The policy and law declared in the Executive proclamation is considered to be the law by which this court is governed, whether the capture took place before or after it was issued. It is the existing law by which rights must be determined, and in this matter there can be no possible question of construction or intention.

The cargoes of the "Pedro" and the "Guido" appear from the testimony and papers found on board to have been mostly
48 shipped by neutrals to parties in the enemy's country. Such shipments are *prima facie* enemy's property and subject to condemnation, but such presumption can be overcome by evidence, and in those cases in which claims and test affidavits have been filed tending to show the ownership time will be given for further proof: but the property all being either perishable or subject to deterioration by delay, or such that the cost of keeping will be disproportionate to its value, an order of sale will issue and the claim stand against the proceeds of sale.

The "Panama," after touching at Havana, was bound to Vera Cruz, and a large portion of her cargo is shown to have been shipped to Mexico and consigned to residents and presumptively citizens of that Republic. That is all *prima facie* neutral property and will be released. The rest, shipped by merchants in New

York and consigned to parties in Havana, is presumably the property of the consignees, but where claims and test affidavits have been filed combatting that presumption, time for further proof will be given, as in the cases of the "Pedro" and the "Guido." When the property can be immediately restored to the claimants it will be so ordered, but otherwise it will be sold pending further proof, as the greater part, if not all, is liable to deterioration by the delay.

(S'd) JAMES W. LOCKE, *Judge.*

Filed July 13th, 1898. U. S. district court, southern district of Florida.

49 In the Supreme Court of the United States, October Term, 1898.

THE STEAMSHIP "BUENA VENTURA," &c., Appellant,
v.
THE UNITED STATES. } No. 350.

Stipulation.

It is hereby stipulated by counsel for the parties to the above-entitled cause that the following documents, being original exhibits sent up with the record herein, shall be printed as a part of the record on appeal, namely: (1) the bills of lading, (2) the receipt for duties and fees, (3) the certificate of payment of tonnage duties, (4) the bill of health, (5) the outward foreign manifest, (6) the coasting manifest, (7) the permit to proceed coastwise to lade for a foreign port, and (8) the charter party.

And it is hereby admitted by the claimant that the log book (Borrador de Bittacora), among said exhibits, on the double page 39, states in Spanish that on April 19, 1898, the vessel "sailed from Ship Island for Rotterdam (via Norfolk)," and that the last entry in the crew list (Rol de Navegacion; cover labelled "Vapor Espanol, Buena Ventura"), under the heading "Expediciones O De-
50 spachos," is a certificate in Spanish by the Spanish vice-consul at Pascagoula that on April 14, 1898, the vessel "left for Rotterdam via Norfolk."

J. PARKER KIRLIN,
Counsel for Appellant.
JOHN K. RICHARDS,
Solicitor General.

Dated May 1, 1899.

51 [Endorsed:] File No., 16,935. Supreme Court U. S., October term, 1899. Term No., 106. The Steamship "Buena Ventura," &c., app't, *vs.* The United States. Stipulation as to printing original exhibits and admissions as to entries in log book and crew list. Filed May 6, 1899.

(Here follow bills of lading marked pp. 52, 53, 54, 55, 56, and 57.)

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

58 Fourth series.

No. 521,086. Cat. No. 399.

Receipt for Duties and Fees.

Receipts may be demanded, and, when demanded, must be given as a matter of right, for any payments of money on account of customs or other dues to the United States.

☞ A receipt in this form must be given in every instance when moneys (other than tonnage duty) are paid at the custom-house.

☞ The person to whom this receipt is given is requested to countersign the stub and to inform the auditor for the Treasury Department in the event of his not doing so.

CUSTOM-HOUSE, PORT OF PASCAGOULA, *April* 14, 1898.

Vessel: Span. S. S. Buena Ventura.

Arrived: —— —, 189–.

	Dollars.	Cts.
For duties		
Fines, penalties, and forfeitures		
Storage, labor, and drayage		
Compensation of storekeepers		
Overtime of officers		
Immigrant fund		
Night and other special service		
Dead passengers		
Cording and sealing		
Miscellaneous customs receipts		
Official fees, viz: Surveys		
Foreign entry of vessels		
Foreign clearance of vessels		
Coastwise	2	20
Permits		
Bonds		
Entry of merchandise		
Official certificates		
Miscellaneous fees		
	$2	20

Received from J. de Luzarraga two dollars 20 cents in full of above.

{ Seal Deputy Collector of Customs, Port of Pascagoula, District of Pearl River, Miss. }

2—275

A. E. KREBS,
Dpy. Collector.

[Printed across face:] This form of receipt must not be used for tonnage duty.

Filed May 5, 1898.

E. O. LOCKE, *Clerk.*

[On back.]

Extract from Act of June 10, 1890.

SEC. 14. That the decision of the collector as to the rate and amount of duties chargeable upon imported merchandise, including all dutiable costs and charges, and as to all fees and exactions of whatever character (except duties on tonnage), shall be final and conclusive against all persons interested therein, unless the owner, importer, consignee, or agent of such merchandise, or the person paying such fees, charges, and exactions other than duties, shall, within ten days after "but not before" such ascertainment and liquidation of duties, as well in cases of merchandise entered in bond as for consumption, or within ten days after the payment of such fees, charges, and exactions, if dissatisfied with such decision give notice in writing to the collector, setting forth therein distinctly and specifically, and in respect to each entry or payment, the reasons for his objections thereto, and if the merchandise is entered for consumption shall pay the full amount of the duties and charges ascertained to be due thereon. * * *

2—275

Receipt for custom dues.

59

Art. 179, Customs Regulations of 1892. Cat. No. 491. No. 76076.

Certificate of Payment of Tonnage Duty.

(To be issued, in all cases, under seals of collector and naval officer.)

U. S. CUSTOM-HOUSE, PORT OF BRUNSWICK, GA.

I hereby certify that on this 9 day of Sept'r, eighteen hundred and ninety-six, the tonnage duty of 3 cents per ton, imposed by the provisions of section 14 of the act entitled "An act to remove certain burdens on the American merchant marine and encourage the American foreign-carrying trade, and for other purposes," approved

June 26, 1884, was paid on the * Span. S. S. Buena Ventura, J. de Luzarraga, master, of † Bilboa, by A. F. Thurbell, as per American admeasurement, 1,332 tons, amounting to 39 dollars 96 cents.

The above payment was made on entry from Cienfuegos on the 9 day of Sept'r, 1897, being the first payment on entry in the year beginning ‡ Sept. 9, 1897.

Schedule of Payments.

Number.	Date.	Tons.	Rate.	Amount.	Port of entry.
1st	Sept'r 9, '97	1,332	3	$39 96	Brunswick, Ga.
2d					
3d					
4th					
5th					

[Seal Collector of Customs, Port of Brunswick, District of Brunswick.]

MALLERY P. KING,
D. Collector.

——, *Naval Officer.*

[Printed across face:] Show this whenever vessel enters within tonnage year to avoid overpayment of tax.

Filed May 5, 1898.

E. O. LOCKE, *Clerk.*

[On back.]

Notice.

In case of dissatisfaction with the collector's ruling, application for refund may be made within one year, under section 26, act June 26, 1884.

2—843

* Here give nationality, class, and name of vessel.
† Here give her home port.
‡ Tonnage year begins at first entry of vessel when tax is due.

Art. 132, Customs Regulations of 1892. (Cat. No. 494.)

THE UNITED STATES OF AMERICA.

[Vignette.]

Bill of Health.

CUSTOM-HOUSE, PORT OF PASCAGOULA.

To all to whom these presents shall come:

Whereas the Span. S. S. Buena Ventura, of Bilbao, of which J. de Luzarraga is master, is now ready to depart from the port of Pascagoula, Miss., for Norfolk, Va., and other places beyond the sea, with thirty-four (34), all told, persons, including the master of the said vessel:

We therefore by these presents do make known and certify that no plague nor any other dangerous or contagious disease at present exists in the said port.

Given under *our* hands and seals of office this 14th day of April, 1898, and in the 122 year of the Independence of the United States of America.

{Seal Deputy Collector of Customs, Port of Pascagoula, District of Pearl River, Miss.}

A. E. KREBS,
Dpy. Collector of Customs.

No naval officer.

2—122

Filed May 5, 1898.

E. O. LOCKE, *Clerk.*

[Endorsed:] (Cat. No. 494.) District of Pearl River, port of Pascagoula, April 14, 1898. Bill of health. * Span. S. S. † Buena Ventura, J. de Luzarraga, master. Bound for Norfolk. Number of persons, 34.

2—122

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* Insert nationality and rig of vessel.
† Insert name of vessel.

61 1867-'68—*New Form—Outward Foreign Manifest.*

Report and manifest of the cargo laden at the port of Pascagoula, U. S. A., on board the Spanish steamship "Buena Ventura," whereof —— Luzarraga is master, bound for Rotterdam, Holland.

PASCAGOULA, MISS., *April* —, 1898.

Numbers.	Packages and contents.	Timber.		Lumber.		Total value.	To be landed at—
		Cubic feet.	Value.	Sup'l feet.	Value.		
81435	Eighty-one thousand four hundred & thirty-five pcs. lumber.	.....	.....	872,235	.....	$10,902 93	Rotterdam, Holland.

Cleared by—

WM. S. KEYSER & CO.,
Pascagoula, Miss.

Filed May 5, 1898.

E. O. LOCKE, *Clerk.*

[On back.]

Master's Oath on Clearing Outward.

DISTRICT AND PORT OF PASCAGOULA:

I, —— Luzarraga, master or conductor of the Span. S. S. "Buena Ventura," bound from the port of Pascagoula to Rotterdam, Holland, do solemnly, sincerely, and truly swear that the manifest of the cargo on board the said vessel, now delivered by me to the collector of this district and subscribed with my name, contains, according to the best of my knowledge and belief, a full, just, and true account of all the goods, wares, and merchandise now actually laden on board the said vessel or vehicle and of the value thereof, and if any other goods, wares, or merchandise shall be laden or put on board the said vessel previous to her departure from this port I will immediately report the same to the collector. I do also swear that I verily believe the duties on all foreign merchandise therein specified have been paid or secured according to law, and that no part thereof is intended to be relanded within the United States, and that if by distress or other unavoidable accident it shall become necessary to reland the same I will forthwith make a just and true report thereof to the collector of the customs of the district wherein such distress or accident may happen, and that said cargo is truly intended to be landed in the port of Rotterdam, Holland, so help me God.

J. DE LUZARRAGA, *Master.*

Sworn to before me this 14th day of April, 1898.

{ Seal Deputy Collector of Customs, Port of Pascagoula, District of Pearl River, Miss. }

A. E. KREBS,
Dpy. Collector.

Manifest #4.

Manifest of the cargo on board of the Span. S. S. Buena Ventura, of the burthen of 1,332 tons, whereof J. de Luzarraga is master, bound from Pascagoula, Miss., to Norfolk, Va.

No. of entries.	Names of shippers.	Residence of shippers.	Marks and numbers.	No. of packages.	Packages, with their contents.	Names of consignees.	Residence of consignees.
			81,435	pieces	lumber—872,235 sup. ft.		

Cat. No. 504¾.
Art. 149, Customs Regs., 1892, and dep't cir. 84 of 1896, ed. 1, 19, '97, 2,500.

Permit to Proceed Coastwise to Lade for a Foreign Port.

UNITED STATES CUSTOMS SERVICE, PORT OF PASCAGOULA.

J. de Luzarraga, master of the Span. S. S. Buena Ventura, of Bilbao, having sworn, as the law directs, that there are not laden on board the said vessel any articles or cargo whatever other than sea stores and the cargo specified upon the manifest now exhibited, permission is hereby granted to the said vessel to proceed from this port to Norfolk, in the district of Norfolk and State of Virginia, to lade bunker coal. Any merchandise laden on the vessel at this port for export in her will .... be included in the export returns to the Treasury Department from this office.

(Write "not," if necessary.)

Given under my hand, at the custom-house, this 14th day of April, 1898.

[Seal Deputy Collector of Customs, Port of Pascagoula, District of Pearl River, Miss.]

A. E. KREBS,
Deputy Collector.

Fees, $2 for foreign vessel.

Filed May 5, 1898.

E. O. LOCKE, *Clerk.*

[On back.]

I, J. de Luzarraga, do swear the within is a true manifest of the whole cargo of the said S. S. Buena Ventura, and that such goods, wares, and merchandise of a foreign manufacture as therein specified were legally imported, and the duties thereupon have been duly paid or secured to be paid according to law.

Custom-house, Pascagoula, Miss., this 14th day of April, 1898.

J. DE LUZARRAGA.

I certify that the above oath was taken and subscribed before me and a duplicate delivered according to law.

A. E. KREBS,
Dpy. Collector.

DISTRICT OF PEARL RIVER, PORT OF PASCAGOULA,
14th Day of April, 1898.

J. de Luzarraga, having sworn, as the law directs, to the within manifest, consisting of lumber & ship stores, articles of entry, and delivered a duplicate thereof, permission is hereby granted to the said S. S. Buena Ventura to proceed to Norfolk, Va., to lade bunker coal.

Given under *our* hands, at the custom-house, Pascagoula, the day and year above mentioned.

{Seal Deputy Collector of Customs, Port of Pascagoula, District of Pearl River, Miss.}

A. E. KREBS, *Dpy. Coll.*

Coasting manifest #1 & clearance paper.

(Here follows agreement marked p. 63.)

Endorsed on cover: Case No. 16,935. S. Florida D. C. U. S. Term No., 106. The Steamship "Buena Ventura," Juan de Luzarraga, claimant, appellant, *vs.* The United States. Filed July 27th, 1898.